THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14994 of 1996

ORAL ORDER:

This writ petition is filed challenging the Award passed by the Industrial Tribunal-cum-Labour Court, Visakhapatnam in I.D.No.14 of 1992 dated 13.10.1995.

The petitioner is the management and first respondent is workman. It appears, first respondent was engaged as part-time sweeper in the office of the Programme Officer, District I.C.D.S. Cell at Visakhapatnam on a consolidated pay of Rs.150/- per month with effect from 1.8.1987 and her monthly wages were being drawn from out of the contingency funds. Before shifting the office of Programme Officer from Visakhapatnam to Paderu, the first respondent-workman's services were terminated vide proceedings dated 6.12.1991. Questioning the same, the first respondent raised a dispute under Section 2A(2) of the Industrial Disputes Act, 1947 before the Labour Court, Visakhapatnam. The management filed rejoinder in the said I.D. stating that the first respondent used to stay in the office premises with her family members and using the entire office as her own residence, utilizing the office, electricity and other amenities. The management got her vacated from the office premises and also asked her to work as per rules. But she refused to vacate and demanded wages irrespective of budgetary sanction. After terminating the first respondent, the sweeping work was entrusted to the watchman who was being paid Rs.22/- per day. Since the first respondent was only a temporary employee, the management has every right to remove her without any notice if her work was found to be not satisfactory.

No evidence, either oral or documentary is adduced on behalf of management. However, on behalf of workman, she got herself

examined as W.W.1. On the basis of the material available on record, the Labour Court found that the termination of service of the first respondent under Ex.W1 is not valid and justified and directed the management to reinstate the workman into service as part-time sweeper within one month from the date of receipt of the order. Aggrieved by the same, management filed the present writ petition.

This Court, while admitting the writ petition on 31.7.1996, granted interim suspension of the impugned award passed by the Labour Court.

The learned counsel for petitioner-management strenuously contended that the impugned award of the Labour Court is absolutely without jurisdiction. The Labour Court failed to see that the petitioner-management is not an Industry as defined under Section 2J of the Industrial Disputes Act, 1947 and the Industrial Disputes Act has no application to the facts of the case. The termination order dated 6.12.1991 was for the reason that the services of the petitioner were no more required, therefore, the award passed by the Labour Court directing reinstatement of the first respondent is arbitrary and illegal.

Whereas, the learned counsel for first respondent-workman supported the impugned award passed by the Labour Court and submitted that no ground is made out to interfere with the award passed by the Labour Court.

There is no necessity of going into all the details. It is an admitted fact that the petitioner was appointed as part-time sweeper in August 1987 and her services were terminated on 6.12.1991. No notice of any kind was issued to the workman before terminating her services. The very rejoinder filed by the management would indicate that the petitioner had worked for more than 240 days preceding the date of her termination, therefore, I am of the view that the provisions of Section 25F of the I.D. Act are attracted. Apart from that in the rejoinder filed by the management, it is stated that after termination of the first respondent, the

work of sweeper was entrusted to the watchman. It appears, the whole grievance of the management is that the first respondent has set up her family in the very same building and utilized the building for the purpose of her residence and further, she demanded salary without there being any budgetary sanction. I am of the opinion that this cannot be a ground for dispensing with the services of the first respondent and the management has acted in a high-handed manner in terminating the services of the first respondent-workman. Therefore, the Labour Court has rightly found that the termination of first respondent from service is arbitrary and illegal and therefore, rightly directed for reinstatement of the petitioner into service. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 2.2.2007

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W.P.No.14994 of 1996

2.2.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14994 of 1996

Date: 2nd February, 2006

Between:

Integrated Child Development Project,
represented by its Child Development
Project Officer, Maharanipet, Visakhapatnam.

.. Petitioner

And

Janapareddi Chinathalli & another.

.. Respondents